

**REMARKS**

The Examiner's Final Office Action mailed June 2, 2009, which rejected all pending claims, has been reviewed. Reconsideration in view of the foregoing remarks is respectfully requested. Moreover, Applicants have reviewed the Office Action of June 2, 2009, and submit that the following remarks are responsive to all points raised therein. Applicants believe that currently pending claims 1-4 are now in form for allowance.

Status of Claims

Claims 1-4 are pending in the application. Claim 1 was amended to exclude lice that infect humans. No new matter has been added.

Rejection of Claims 1-3 under 35 USC §102(b)

Reconsideration is respectfully requested of the rejection of claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Snyder (US Patent No. 6,063,771).

Claim 1 is directed to a method of repelling arthropods from warm-blooded species, excluding lice that infect humans. The method includes applying an effective amount of a pyrethroid or pyrethrin in combination with a nicotinic agonist to said warm-blooded species.

Applicants respectfully submit that Snyder does not teach all of the elements of amended claim 1. In particular, Snyder does not teach a repellence effect on all arthropods. Snyder only teaches controlling lice in humans, which are specifically excluded from amended claim 1.

As such, Applicants respectfully request the withdrawal of the rejection of claim 1. As claims 2 and 3 directly depend from claim 1, Applicants respectfully request withdrawal of the rejection of claims 2 and 3 as well.

Rejection of Claim 4 under 35 USC § 103(a)

Reconsideration is requested of the rejection of claim 4 under §103(a) as being unpatentable over Snyder (US Patent No. 6,063,771) in view of Knauf et al. (US Patent Application No. 2002/0061928).

Snyder is discussed above.

Knauf is concerned with a pesticidal composition comprising deltamethrin and acetamiprid. Knauf does not refer to a repellent effect, but rather to a pesticidal effect.

Arthropodicidal, insecticidal, or pesticidal activity means that the respective parasite is killed. Independently from this activity there is a repellent effect (repellence), which means that the respective compound drives back the parasite but not that the pests are killed.

Repellence is generally acknowledged to be an active movement of a pest/parasite away from the spot where the repellent was applied (usually the host). (See Kumar article attached herewith discussing repellency, in particular pages 350-351) If an active ingredient kills the parasite on the host this would not be considered as repellence. By definition this item does not apply to a dead pest/parasite which cannot leave its host actively - it may eventually drop off if not yet attached or it may be groomed away by the host itself. Thus on the contrary, killing the parasite could lead to infinite presence on the host unless the host or its owner removes the dead parasite.

As Snyder only teaches controlling lice on humans, which are specifically excluded from amended claim 1 and 4, and Knauf is concerned with killing effect not repellency, Applicants believe the Examiner's rejection is now moot and respectfully request withdrawal of the rejection to claim 4.

Conclusion

In view of the above, Applicants respectfully submit that the pending claims are patentable over the cited references and request withdrawal of all rejections and allowance of the claims.

The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment in connection with this amendment to Deposit Account No. 50-4260.

Respectfully submitted,

/JESSICA MONACHELLO/

Jessica Monachello  
Reg. No. 58,015  
BAYER HEALTHCARE LLC  
P.O. Box 390  
Shawnee Mission, KS 66201  
Tel: 913-268-2038  
Fax: 913-268-2889